

MINUTES

**CITY OF WARR ACRES
REGULAR CITY COUNCIL MEETING
TUESDAY
NOVEMBER 16, 2004
7:00 P.M.**

1. The meeting was called to order at 7:00 p.m. Declaration of a quorum present was given. The Flag salute was lead by Chief Carter and Invocation was given by Mayor Tardibono.

ROLL CALL

PRESENT

Mayor Marietta Tardibono
Vice-Mayor Tom Smith
Councilman Jimmy Alexander
Councilwoman Leslie Owens
Councilman Mike Gossman
Councilman Bob Wehba
Councilman Justin Frisbie
Councilman Barry Curl
Councilwoman Nancy Olson

ABSENT

DEPARTMENT HEADS AND CONSULTANTS PRESENT

Pamela McDowell-Ramirez, City Clerk
Roger Patty, Police Chief
Rob Carter, Acting Fire Chief
Mike Turman, City Inspector
Bob Jernigan, City Attorney
Scott Barrett, City Engineer
Wiley Rice, Jr., City Planner

2. Questions and Comments from Warr Acres Residents.

Mr. Tommy Pike stated that he thought that items 9 and 12 should be reversed. If you are talking about purchasing a truck you need to know where you are going to get the money. And item 11 should be a Public Hearing. Bob Jernigan stated that it is going to be sent to the Planning Commission for consideration. He also said that back in 1992 a survey was done and at that time no one wanted to go outside for garbage service and they still do not. The Mayor agreed and said that the Sanitation department was doing a good job and she did not like the idea of going outside for garbage service either.

3. Recess to enter into the Warr Acres Economic Development Authority Meeting.

The Council meeting was adjourned at 7:04 p.m.

Convene as Warr Acres Economic Development Authority.

The meeting of the Economic Development Authority was called to order at 7:05 p.m.

1. Approval of Minutes of the Meeting of Economic Development Authority Regular Meeting of October 19, 2004 and Special Meeting of November 4, 2004.

Motion by Frisbie, second by Curl to approve the October 19th minutes.
Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea;
Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Motion by Frisbie, second by Curl to approve the November 4th minutes.
Poll vote: Alexander, yea; Owens, yea; Gossman, abstain; Wehba, yea;
Frisbie, yea; Curl, yea; Smith, abstain; Olson, yea; and Tardibono, yea.

Motion Passed.

2. Approval to reimburse petty cash for expenses from a luncheon for economic development in the amount of \$41.65.

Trustee Wehba asked what this was for. Trustee Owens stated that it was a luncheon with Wiley Rice, Scott Barrett, Bob Jernigan and herself to follow up on an economic development issue. Trustee Curl stated that he did not remember anyone ever putting in for reimbursement in the past. Clerk Ramirez stated that yes in fact Mr. Morales did ask for reimbursement on several occasions and so did others. Councilwoman Olson stated she also remembered reimbursing Council members for such things.

Motion by Gossman, second by Alexander to approve the reimbursement.
Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea;
Frisbie, yea; Curl, nay; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed.

3. Discussion and possible action on paying a claim for Richard Farris in the amount of \$4,969.32.

Motion by Gossman, second by Frisbie to approve the payment of the claim. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

4. Discussion and possible action on development proposals and possibly entering into Executive Session as allowed under 25 O.S. Supp 307 (10), All nonprofit foundations, boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts, task forces, or study group supported in whole or part by public funds, or entrusted with the expenditure of public funds for purposes of conferring on matters pertaining to economic development, including the transfer of property, financing, or the creation of a proposal to entice a business to locate within their jurisdiction if public disclosure of the matter discussed would interfere with the development of products or services or if public disclosure would violate the confidentiality of the business.

Motion by Curl, second by Smith to enter into executive session with Mr. Farris and Jeff from the Floyd Law Firm to stay. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

The Trust entered into executive session at 7:12 p.m.

The Trust returned to open session at 8:06 p.m. **WITH NO ACTION TAKEN.**

Motion by Owens, second by Frisbie to continue the Economic Development Meeting to Monday, November 22, 2004 at 7:00 p.m. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

The Trust reconvened at 7:00 p.m. on November 22, 2004. Trustees Smith and Gossman were absent and Trustee Curl arrived at 7:15 p.m.

Motion by Wehba, second by Frisbie to enter into executive session with Mr. Farris to stay. Poll vote: Alexander, yea; Owens, yea; Wehba, yea; Frisbie, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

The Trust entered into executive session at 7:05 p.m.

The Trust returned to open session at 8:05 p.m. **WITH NO ACTION TAKEN.**

5. Adjournment of the Warr Acres Economic Development Authority Meeting.

Motion by Alexander, second by Wehba to adjourn. The meeting was adjourned by acclamation at 8:06 p.m. on November 22, 2004

4. Reconvene City Council Meeting.

The City Council meeting was reconvened at 8:08 p.m.

5. CONSENT DOCKET: (individual items may be deleted from the consent docket for discussion and action under #6.

A. Approval of Expenditures – General Fund \$ 41,495.83

B. Approval of Supplemental Appropriation in the amount of \$10,500 from the donated monies and grant money for the K-9 unit.

Councilman Curl stated that he thought that the BOA case that was heard on Monday, November 15th would be on this agenda. Clerk Ramirez stated that the BOA case will be on the December 7th meeting to waive the 30 days and for a Revocable Permit. Since the meeting was the night before and not knowing what the ruling of the BOA would be staff was unable to place the item on this agenda.

Motion by Owens, second by Olson to approve the consent docket. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

6. Discussion and possible action on items removed from the consent docket.

Moot.

7. Receive reports from Staff: Police, Fire, City Clerk, City Inspector, Street, Sanitation, Sewer, City Engineer, City Planner.

Chief Patty-told the council that the K-9 dog had completed training and was working and that the Kickapoo Nation is going to donate a Jeep Grand Cherokee fully equipped to the city of the K-9 unit.

Inspector Turman-stated it was business as usual and that work on the Conoco at 63rd and MacArthur was underway and should be completed in around two months. He also stated that Incredible Pizza was progressing and the target date for completion is March-April. Councilman Smith stated that he noticed that the Conoco at 50th and Meridian had once again opened and he questioned what was going on at the old Goodwill location. He said that it seemed there had been several sales being held there recently and asked if anyone was checking on them. Mr. Turman stated that he was aware of the situation and had talked to the owner and would talk to him again.

Sanitation Supervisor-told everyone that since the employees are off on Thanksgiving and the day after there would be city wide curb pick up on Wednesday before Thanksgiving.

City Engineer Barrett-said that he was in discussion with ODOT and OKC to figure out what the reimbursement from OKC would be on Ann Arbor and if there would be any reimbursement from ODOT.

8. Discussion and possible action on canceling the second December council meeting scheduled for December 21, 2004. *Curl*

Motion by Curl, second by Smith to cancel the second December meeting. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

9. Discussion and possible action to award the bid for the purchase of a new Front-end loader Sanitation truck.

Councilman Wehba made a motion to continue this item until such a time that a public forum could be held to inform the citizens what the council is getting ready to do and this item also ties in with item 12. The Mayor asked if that wasn't the purpose of the survey. Councilwoman Owens stated that there is a difference in that there are wanta do's and gotta do's, if you need a truck then it is a gotta do. Councilman Wehba stated that he felt that the cart was before the horse in approving the purchase before approving the funding. Councilman Frisbie stated that maybe they needed to look at item 12 first. The Mayor stated that they would move to item 12 and proceeded to read item 12.

The council discussed item 12 at this point.

After the vote on item 12 they returned to item 9.

Councilwoman Olson asked how long the price would be good. Bob Jernigan said that if they accept the bid tonight then it will lock in the price and the lease agreement will then be worked out. Councilman Smith asked if the staff looked at all the documents and he was told that they did as well as Councilmen Alexander, Gossman and Wehba. Waste Research was the lowest bid and it also included a camera system. They will have the truck ready in 30 days and they had people from the company supplying the chassis and the packer here to answer questions. Mr. Lane Fields with Waste Research stated that they have a good user list and they stand behind their products. He stated that service on the truck would be done on site. Stan Clark was present and he had bid the Peterbuilt chassis for Total Truck. Bob Stavannah was present and he represented Total Truck. Bill Dinsmore gave the council information about the Sterling Condor cab and chassis for which Waste Research bid. Scott Kramer who is the supplier for the Mammoth packer body was present all the way from Iowa to answer questions concerning the packer body.

Motion by Gossman, second by Alexander to accept the bid from Waste Research for the purchase of a new Front-end loader Sanitation truck subject to the lease agreement being worked out with appropriate wording and subject to the appropriation of the funds to make the purchase. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Councilman Curl thanked all the individuals that had come to the meeting to answer questions. He told them that too many times when the council is making a decision on issues such as this no one shows up at the meeting to answer questions.

The Council took a 5 minute recess from 9:04 p.m. to 9:09 p.m.

10. Discussion and possible action on the Planning Commissions recommendation concerning the removal of 19.52.020 from Title 19 and possibly directing the Attorney to draft an Ordinance reflecting such changes. *Gossman*

Bob Jernigan stated that there were issues being worked out concerning this issue and that it needed to be continued to a later date and that he would have an Ordinance ready at that time.

Motion by Gossman, second by Wehba to continue this item to the January 18th meeting. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

11. A. Discussion and possible action on Ordinance #1001 changing the size of accessory buildings in FE Districts. ****

Bob Jernigan stated that this item is being sent to the Planning Commission for a Public Hearing.

Motion by Wehba, second by Gossman to send the item to the Planning Commission. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, nay; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed.

- B. Approval of the emergency clause on Ordinance #1001.

Moot.

12. Discussion and possible action on raising the Garbage rates and directing the Attorney to draft an Ordinance reflecting such changes.

Councilman Wehba stated that he understood when the changes were made by the city it saved \$38,000 a year over the last year in the Sanitation department. He asked the Mayor if this was correct and she stated it was. He also stated that according to budget figures they received at the first of the fiscal year indicated that the Sanitation department ended the previous fiscal year \$60,000 approximately in the hole. He is concerned that they need the public's input and to let the citizens know through a public forum because the city is fixing to raise their rates. Councilman Gossman had been working on some figures in reference to the cost of running the Sanitation department. He stated that he had done some research and farthest back that he could get information was 2000 on the landfill and fuel cost had increased and yet the city has not raised the residential rates since 1992. Right now the two commercial trucks can only be filled part way and then must be taken to be dumped and we are still charged the full rate, with a new truck there would be less trips to the dump since the new one could be filled to capacity. Councilwoman Owens stated that she understands where Councilman Wehba is coming from because they do not have the revenue verses the expenditures and yet we are in a situation where the city has to get a new vehicle and that is the cost of doing business. She said that the service should pay for itself. Councilman Curl asked if the rate increase would only be for residential and Councilman Gossman said yes because the commercial was raised in 2000. Then there was discussion on how apartments are billed. Supervisor Hayes stated that most are charged commercial rate but there are a couple that are on residential. Councilwoman Owens stated that the problem was they did not have all the information they needed to determine the rate of an increase, however they do know that the new truck is needed and how much it will cost and the increase could be figured on that and then take a closer look at a later date to see where the city stands. Councilwoman Olson stated that the rates have not been raised in a

long time and the Sanitation department never comes out ahead. She continued by saying that no one wants to raise the rates but they must be in order to cover cost or they city could go to one day a week pick up or go to outside service but that would cost even more. Councilman Frisbie stated that they do need to keep the public informed and the first thing is that there is not enough money coming in to cover the cost of doing business. Councilman Wehba stated again that he felt there needed to be a Public Hearing so that the citizens could hear it first hand instead of reading about an increase in the paper. Councilwoman Owens stated that there is a clear need for a vehicle and we are paying more for dumping because we can not fill the truck to capacity so we need to take care of that now and work on the other. Bob Jernigan stated that before a contract can be signed you must appropriate the funds but you can raise the rate and put the money back. Tommy Pike stated that the comment that one council member made about breaking even is not correct. He said that the Police and Fire departments are subsidized now all of a sudden the Sanitation department gets the flack. Rodney Nelson said that if the rates are raised then all rates should be raised not just the residential. He did not like the idea that the residents would be subsidizing the garbage service. He said back in 2000 when the commercial was raised it was because the rates were so low the city was giving the service away. He said that Warr Acres resident's rates are right in line with other cities. He said that personally he is tired of subsidizing departments and if they want subsidies then they need to get it from someone else. Councilman Smith stated that the rates for commercial are such that if they are raised they will go to outside services and then we will lose that revenue also. Rodney Nelson stated that he was just asking to raise them across the board, and apartments should pay the same. Councilman Curl stated that Mr. Pike was correct in that for years the residents have not been subsidizing anything in the garbage. It was thought that this service was something that was offered to the residents without them having to subsidize.

Motion by Wehba, second by Owens to continue this item to the December 7th meeting. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

13. Discussion and possible action on a Revocable Permit for the use of the right-of-way located in front of 5805 NW 63rd, Greenhouse Creations, applicant, Sandi Huckins.

Ms. Sandi Huckins stated that her business does not have a lot of curb appeal and they want to build a flower planter to add appeal but need to use the right of way. Mr. Huckins explained what the planter would look like and what it would be made out of and also that they understand that if any utility or the city needs the right of way they will lose the planter and it will be their cost. Scott Barrett stated that they would have to make sure that it had sight clearance and Mr. Huckins stated the tallest portion would only be 18 inches tall.

After the motion and second Councilman Smith asked if this was considered a structure and Bob Jernigan stated that under the current definition it might but did not believe that it needed to go to the Planning Commission.

Motion by Owens, second by Alexander to authorize a Revocable Permit to allow construction of a planter as proposed and will be renewable annually unless otherwise terminated. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, nay; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed.

During the vote Councilman Wehba wanted confirmation as to whether the planter was considered a structure. Bob Jernigan stated that it is by definition yes, according to the definition a structure is anything that is attached to the ground or attached to something that is attached to the ground. Councilman Smith stated that there is no concrete footing. Bob Jernigan stated that this is one of the issues that they are working on. He said that since it is going to be on the right of way he did not believe it needed to go to the Planning Commission.

14. Discussion and possible action concerning allowing the use of gates to secure properties/communities in Warr Acres and directing the Attorney to draft an Ordinance reflecting such changes. *Owens & Jernigan*

Councilwoman Owens stated that a request had been received concerning why an apartment complex had gates but were not using them. She stated that she felt with a few minor changes to the Ordinance gates could be allowed to be used. The Mayor stated that when she first came into office she thought it was a great idea until she checked it out. She asked Chief Patty to address the issue. Chief Patty stated that he was not for or against it and then proceeded to give the council information on gated areas. He said that the Police and the Fire would have to have a way to override the system for quick access to the properties. He said that codes are not a good thing because they take too long and they get changed and the message does not get passed on to the Police and Fire. He said that the gates give a false sense of security and anyone can follow a resident in. He said that if they were called to a shooting he would not want his officers fiddling around with access to a gate when they need their attention on what is going on around them. Councilwoman Olson asked what happens when the power is out or an ambulance needs in. Chief Patty stated that there were several issues that needed to be addressed. The Mayor stated that if they gate a housing addition then the maintenance of the streets in that addition falls to the homeowners. Councilwoman Owens stated that she was looking at housing additions only gated access properties.

Motion by Owens, second by Curl to continue to authorize the staff Chief Patty, Chief Carter, Mike Turman, and Luke Simms to meet and to develop an

Ordinance and the requirements that would be needed to allow for gated access.
Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea;
Curl, yea; Smith, yea; Olson, yea; and Tardibono, nay.

Motion Passed.

15. Final Public Hearing, discussion and possible action on a Use Subject to Review for a Service Office located at 5559 NW Expressway in the Market Place Shopping Center. Applicant, Kathi Risk.

Motion by Curl, second by Wehba to close the Public Hearing. Poll vote:
Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea;
Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

This is a Use Subject to Review and not a Special Use Permit. Wiley Rice explained the difference. Councilman Smith asked why the Mortgage company around the corner did not require a Review. Bob Jernigan stated that it was not a requirement when they went in. Councilman Smith stated that he did not understand why the city has a C-4 zoning if they are going to allow offices to go into them. Councilman Gossman stated that really it was a Credit Union before which is an office so it is really going to be the same.

Motion by Gossman, second by Alexander to approve the Use Subject to Review for the Service Office at 5559 NW Expressway. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

16. Questions and comments from Council members.

Councilman Alexander-thanked everyone for the flowers that were sent after his recent surgery.

Councilman Gossman-asked if when the Title 19 Committee meets if the consultants are being paid and if staff is paid overtime. Bob Jernigan stated that the consultants are not paid extra. Clerk Ramirez stated that Mr. Turman did get overtime for attending such meetings.

Councilman Wehba-wanted to know when the city was going to get rid of the Suburban that has been sitting at the yard for several years. Chief Patty stated that he is working on it but it takes an act of Congress to get rid of it since it was from a seizure. Councilman Wehba also asked about the city's drug testing policy and stated that he had been told that a recent situation had taken place and the person

was not ever to his knowledge tested. Bob Jernigan stated that this was an issue that needed to be discussed outside the meeting since it was a personnel issue. Councilman Wehba stated that he believed that recently the city had approved drug testing through an agency and he thought a policy was going to be set up. Bob Jernigan stated that the policy is in the handbook. Councilman Wehba stated that each Supervisor needed a copy of the policy. The Mayor told the council that the policy was followed in the situation that Councilman Wehba was referring to.

Mayor Tardibono-told that since the city offices would be closed on Thursday and Friday, November 25th and 26th the Sanitation department would run a city wide curbside service on Wednesday, November 24th.

Councilman Curl-asked Scott Barrett about any progress on NW Highway and MacArthur and Mr. Barrett stated that he had not heard anything.

17. Any Old or New Business (“New Business” is defined by the Open Meeting Act as any matter not known about or which could not have been reasonably foreseen prior to the time of posting of the agenda of a (“surprise nature”)).

Moot.

18. Adjournment.

Motion by Gossman, second by Alexander to adjourn. Poll vote: Alexander, yea; Owens, yea; Gossman, yea; Wehba, yea; Frisbie, yea; Curl, yea; Smith, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

The meeting was adjourned at 9:53 p.m.

Respectfully submitted,

Pamela McDowell-Ramirez
City Clerk